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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 FEB 19 AM 10:41

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

08 MJ 0456

DEPUTY

UNITED STATES OF AMERICA,

Plaintiff,

v.

Sean Nicholas GILBERT

Defendant.

Magistrate Case No. _____

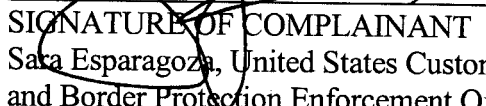
COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section
1324(a)(2)(B)(iii)-
Bringing in Illegal Aliens
Without Presentation

The undersigned complainant being duly sworn states:

On or about **February 15, 2008**, within the Southern District of California, defendant **Sean Nicholas GILBERT**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Angelica LIMA-Badillo, Veronica Berenice CANCHOLA-Aguilera and Maria Soledad ZENDEJAS-Ortiz**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens, and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs
and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 19th DAY OF
FEBRUARY, 2008.


UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

I, United States Customs and Border Protection (CBP) Enforcement Officer Fernando Cerda, declare under penalty of perjury the following to be true and correct:

The complainant states that Angelica LIMA-Badillo, Veronica Berenice CANCHOLA-Aguilera and Maria Soledad ZENDEJAS-Ortiz are citizens of a country other than the United States; that said aliens have admitted they are deportable; that their testimony is material; that it is impracticable to secure their attendance at trial by subpoena; and that they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

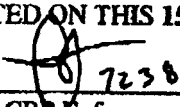
On February 15, 2008 at approximately 6:34 AM, Sean Nicholas GILBERT (Defendant) made application for admission into the United States at the San Ysidro Port of Entry. Defendant was the driver and sole visible occupant of a red 2004 Chevrolet Avalanche truck. Upon inspection before a Customs Border Protection (CBP) Officer, Defendant presented a counterfeit State of California Driver License and gave a negative Customs declaration. Defendant told the primary officer that he owned the vehicle for two weeks and that he was returning from Mexico after visiting a girl. Defendant further stated he was going to San Diego. The inspecting officer noticed Defendant was very disoriented and nervous so he conducted a cursory inspection on the vehicle. Upon inspection, the primary officer discovered people concealed behind the driver's seat. Assistance was requested; furthermore, Defendant and vehicle were escorted to secondary for a more thorough inspection.

In secondary, twelve undocumented Mexican citizens were discovered concealed in the vehicle. Six were removed from the rear cabin floor and six more from the cargo bed. Three were retained as Material Witnesses and are now identified as Angelica LIMA-Badillo (MW1), Veronica Berenice CANCHOLA-Aguilera (MW2) and Maria Soledad ZENDEJAS-Ortiz (MW3). The other nine aliens were administratively removed to Mexico via the San Ysidro Port of Entry.

During a videotaped interview Defendant was advised of his Miranda rights. Defendant acknowledged his rights and elected to answer questions without benefit to counsel. Defendant conveyed that he agreed to drive the vehicle across the border to pay off a \$1,000.00 USD gambling debt. Defendant admitted that he suspected he was smuggling aliens or drugs into the United States.

On separate videotaped interviews with Material Witnesses they declared to be citizens of Mexico without legal documents to enter the United States. Material Witnesses were traveling to Los Angeles, California. Material Witnesses stated they were going to pay unknowns smugglers \$3,000.00 USD upon their arrival to the United States.

EXECUTED ON THIS 15th DAY OF FEBRUARY 2008 AT 4:00 PM.


Fernando Cerda / CBP Enforcement Officer

On the basis of the facts presented in the Probable Cause Statement consisting of (1) page, I find probable cause to believe that the defendant named therein committed the offense on February 15, 2008 in violation of Title 8, United States Code, Section 1324.


MAGISTRATE JUDGE

2/16/08, 12:11 hrs
DATE / TIME